

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

WILLIAM JOHNSON, JILL JOHNSON,)	
BRIAN MASON, NAOMI MASON, and)	
SECOND AMENDMENT FOUNDATION, INC.,)	
)	
)	
Plaintiffs,)	
)	No. 2:17-CV-124-PLM-TPG
v.)	
)	
ELIZABETH HERTELL, in her official capacity as)	
Director of the Michigan Department of Health)	
and Human Services,)	
)	
Defendant.)	

JOINT MOTION TO STAY PROCEEDINGS

Plaintiffs, William Johnson, Jill Johnson, and Second Amendment Foundation, Inc., and Elizabeth Hertell, in her official capacity as Director of the Michigan Department of Health and Human Services, by and through undersigned counsel, hereby move this Honorable Court to stay the proceedings in this matter in order to allow the parties to complete the terms of the settlement between them. In support thereof, Plaintiffs state as follows:

1. This is an action pursuant to 42 U.S.C. § 1983 which seeks equitable, declaratory, and injunctive relief challenging the State of Michigan's prohibition on functional firearm possession by otherwise qualified Michigan residents who are foster parents. Plaintiffs are licensed foster parents in Michigan, and a Second Amendment advocacy group with membership affected by the challenged laws and regulations.

2. Plaintiffs allege that Michigan state policy substantially prohibits foster parents from the possession of firearms for the purpose of self-defense, and this violates Plaintiffs' constitutional rights under the Second Amendment.

3. Since the inception of this case, the parties have engaged in Motion practice, mediation, and settlement discussions, which have proven fruitful.

4. The three main issues in this matter are:

- An amendment to MDHHS Rule 400.9415 that would allow Plaintiffs to be able to possess functional firearms for self-defense while fostering. This would take the form of (A.) allowing licensees to store an unloaded firearm in a locked safe, with the ammunition in the same safe, when not on one's person; (B.) Allowing licensees with a CPL to possess a firearm pursuant to the law in a vehicle on the licensed property, provided it is done so in such a manner to prevent foster children from having access to it; and (C.) Allowing licensees to engage in hunting, range shooting, and target practice with a foster child in accordance with the reasonable and prudent parent standard as defined under State law and policy.

The amended Rule 400.9415 is currently in the promulgation process, but must go through the Michigan Administrative Procedures Act, MCL 24.201 *et seq.*, to be promulgated. The Defendant believes the promulgation process will be completed in October, 2021.

Once the amended MDHHS Rule 400.9415 is in effect, the other two issues which have been mediated and resolved are:

- The implementation of training materials for MDHHS caseworkers and affiliated agencies regarding the protection of Second Amendment rights of foster parents and prospective foster parents, and that a foster parent receiving/maintaining a license shall not be impacted by the lawful and responsible possession of firearms for defensive and other lawful purposes.
- The payment of attorney's fees pursuant to 42 U.S.C. § 1988.

5. As the parties are literally in a holding pattern pending the completion of the administrative rule promulgation process, at which point the parties will know whether the matter is completely resolved or not, the parties request the proceedings be stayed, so as to conserve judicial resources and not incur additional litigation costs. The parties will report to the Court as soon as the promulgation process is completed, and/or provide periodic reports to the Court as it requests.

Dated: June 30, 2021

Respectfully submitted,

WILLIAM JOHNSON,
JILL JOHNSON, and
SECOND AMENDMENT
FOUNDATION, INC.

ELIZABETH HERTELL, Director of
the Michigan Department of Social
Services

By: /s/ David G. Sigale
Attorney for Plaintiffs

By: /s/ Cassandra Drysdale-Crown
Attorney for Defendant

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